

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	Case No. 1:19-CV-1665
v.)	
)	
RICHARD MIKOLAJEWICZ,)	
ALICIA MIKOLAJEWICZ,)	
BOGUMIL MIKOLAJEWICZ, and)	
COOK COUNTY TAX ASSESSOR)	
)	
Defendants.)	
_____)	

COMPLAINT

The United States of America, with the authorization of a delegate of the Secretary of the Treasury and at the direction of a delegate of the Attorney General, brings this action, pursuant to 26 U.S.C. § 7401, to enforce federal tax liens with respect to the unpaid tax liabilities of Richard Mikolajewicz and Alicia Mikolajewicz (“Taxpayers”) upon certain real property in Cook County, Illinois, and to obtain a money judgment against Taxpayers for certain unpaid federal tax liabilities. In support thereof, the United States alleges as follows:

Jurisdiction, Parties, and Property

1. This Court has jurisdiction pursuant to 28 U.S.C. §§ 1331, 1340, and 1345 and 26 U.S.C. §§ 7402 and 7403.
2. Defendant Richard Mikolajewicz, who is also known as Ryszard Mikolajewicz, resides within the jurisdiction of the Court.
3. Defendant Alicia Mikolajewicz, who is also known as Alicja Mikolajewicz, resides within the jurisdiction of the Court.

4. The real property upon which the United States seeks to enforce its federal tax liens is located at 8236 W. Summerdale, Norwood Park, Cook County, Illinois (the “Property”), bearing Property Identification Number 12-11-202-002-0000, and more fully described as:

Lot 37 in Florence L. Williamson’s resubdivision of Lot 2, in the Superior Court Commissioner’s partition of the Estate of James Williamson, Deceased, being part of the Northeast quarter of Section 11 and part of the Northwest quarter of Section 12, Township 40 North, range 12 East of the Third Principal Meridian, in Cook County, Illinois.

5. Defendant Bogumil Mikolajewicz is named as a defendant in accordance with 26 U.S.C. § 7403(b) because he has or may claim an interest in the Property.

6. Defendant Cook County Tax Assessor is named as a defendant in accordance with 26 U.S.C. § 7403(b) because it may claim an interest in the Property.

FACTS COMMON TO ALL COUNTS

The Taxpayers’ Federal Income Tax Liabilities

7. The IRS conducted an examination of Taxpayers’ Forms 1040, U.S. Individual Income Tax Return, for tax years 2004 and 2005.

8. As a result of the examination, the IRS determined income tax deficiencies based upon a determination that the Taxpayers understated the amounts of gross income reported on Schedule C by overstating both their “costs of labor” and cost of “materials and supplies” for their sole proprietorship, M & R Installers, in both tax years.

9. On April 12, 2010, a delegate of the Secretary of the Treasury made an assessment against Taxpayers for \$72,829.45 in federal income taxes; \$17,647.35 in “failure to pay” penalties; and \$69,523.14 in interest for tax year 2004. The unpaid balance due for tax year 2004 as of December 3, 2018 is \$168,142.58.

10. On April 12, 2010, a delegate of the Secretary of the Treasury made an assessment against Taxpayers for \$27,778.52 in federal income taxes; \$23,762.98 in “failure to pay” penalties; and \$73,943.14 in interest for tax year 2005. The unpaid balance due for tax year 2005 as of December 3, 2018 is \$132,084.30.

11. On or about October 14, 2017, Taxpayers filed a Form 1040 for tax year 2016 which reported \$41,191 in tax due and owing. On November 20, 2017, a delegate of the Secretary of the Treasury made an assessment against Taxpayers for \$41,191.00 in federal income taxes; \$1,434.46 in “failure to pay” penalties; and \$879.24 in interest for tax year 2016. The unpaid balance due for tax year 2016 as of December 3, 2018 is \$39,528.54.

12. On or about the dates of the assessments set forth in Paragraphs 9, 10, and 11, above, a delegate of the Secretary of the Treasury gave Taxpayers notice of the liabilities and made demand for payment.

13. Despite notice of the liabilities described in Paragraphs 9, 10, and 11, above, and demand for payment, Taxpayers have failed, neglected or refused to fully pay the liabilities.

The Property

a. Taxpayers’ Acquisition of the Property

14. Richard Mikolajewicz and his brother, Bogumil Mikolajewicz acquired title to the Property as joint tenants by executor’s deed dated December 15, 2000, and recorded as document number 0010046482, by the Cook County Recorder of Deeds.

15. Richard Mikolajewicz and Bogumil Mikolajewicz each continue to own a 50% interest in the Property.

b. Federal Tax Liens on the Property

16. Pursuant to 26 U.S.C. §§ 6321 and 6322, on the dates of assessments set forth in Paragraphs 9, 10, and 11, above, federal tax liens arose in favor of the United States upon all property and rights to property belonging to Taxpayers in an amount equal to the unpaid assessed liabilities, plus interest and other additions and accruals permitted by law, until paid.

17. The tax liens attached to Taxpayers' present and future property interests, and remain until the amounts they secure are paid, or the statute of limitations on the collection of such liabilities expires.

18. The statutory tax liens regarding the Taxpayers, which arose upon assessment, attached to Richard Mikolajewicz's 50% interest in the Property.

COUNT I: ENFORCE FEDERAL TAX LIENS

19. The United States incorporates all previous paragraphs as if fully stated herein.

20. For purposes of the enforcement of the statutory liens, the Taxpayers remain indebted to the United States in the amount of \$339,755.42 as of December 3, 2018, plus statutory additions and interest that continue to accrue from and after October 18, 2018. The \$339,755.42 balance consists of the original tax, interest, and penalties assessed against Taxpayers, plus statutory interest from and after the dates of assessment, less any payments and credits, for their unpaid income tax liabilities (Form 1040) for the 2004, 2005, and 2016 income tax years.

21. Pursuant to 26 U.S.C. § 7403, the United States is entitled to enforce its liens against the Property, to have the entire Property sold at a judicial sale free and clear of all rights, titles, claims, liens, and interests of the parties, including any rights of redemption, and, after the payment of the costs of sale and preservation of the Property, plus any real estate taxes due and

owing as permitted by 26 U.S.C. § 6323(b), to have 50% of the proceeds distributed to the United States, and to have the remaining proceeds distributed to Bogumil Mikolajewicz, or as otherwise ordered by the Court in accordance with the law.

**COUNT II: REDUCE THE TAXPAYERS' UNPAID TAX
LIABILITIES TO MONETARY JUDGMENT**

22. The United States incorporates Paragraphs 1-3 and 7-13, as if fully stated herein.

23. Taxpayers remain jointly and severally liable to the United States for the taxes assessed against them for the 2004, 2005, and 2012 income tax years, as detailed in Paragraphs 9, 10, and 11, above, plus interest thereon, less any payments and credits.

WHEREFORE, plaintiff United States of America requests the following relief:

- A. Determine and adjudge that Richard Mikolajewicz owns a 50% interest in the Property;
- B. Determine and adjudge that the federal tax liens securing Taxpayers' tax liabilities attach to the Property, and order that the federal tax liens upon the Property be enforced and that the entire Property be sold in a judicial sale, according to law, free and clear of any right, title, lien, claim or interest of the parties herein, and after the payment of the costs of sale and preservation of the Property, plus any real estate taxes due and owing as permitted by 26 U.S.C. § 6323(b), that 50% of the proceeds of the sale be distributed to the United States toward satisfaction of Taxpayers' tax liabilities, and the remaining proceeds distributed to Bogumil Mikolajewicz, or as otherwise ordered by the Court in accordance with the law;

- C. Enter judgment in favor of the plaintiff United States of America and against the defendants Richard Mikolajewicz and Alicia Mikolajewicz, jointly and severally, in the amount of \$339,755.42, plus statutory additions and interest that continue to accrue from and after December 3, 2018, less any payments and credits, for their unpaid income tax liabilities (Form 1040) for the 2004, 2005, and 2016 income tax years; and,
- D. Any other and further relief that the Court deems just and proper, including the United States' costs.

Dated: March 8, 2019.

Respectfully submitted,

RICHARD E. ZUCKERMAN
Principal Deputy Assistant Attorney General
Tax Division, U.S. Department of Justice

/s/ Jordan A. Konig

Jordan A. Konig
Trial Attorney, Tax Division
U.S. Department of Justice
Post Office Box 55
Ben Franklin Station
Washington, D.C. 20044
Telephone: (202) 305-7917
Fax: (202) 514-5238
Email: Jordan.A.Konig@usdoj.gov

Local Counsel:

John R. Lausch, Jr.
United States Attorney

CIVIL COVER SHEET

The ILND 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (See instructions on next page of this form.)

I. (a) PLAINTIFFS

United States of America

(b) County of Residence of First Listed Plaintiff _____
(Except in U.S. plaintiff cases)

(c) Attorneys (firm name, address, and telephone number)

Jordan A. Konig, U.S. Department of Justice Tax Division,
P.O. Box 55, Ben Franklin Station, Washington, DC 20044, (202) 305-7917

DEFENDANTS

Richard Mikolajewicz, Alicia Mikolajewicz, Bogumil Mikolajewicz, and Cook County Tax Assessor

County of Residence of First Listed Defendant _____
(In U.S. plaintiff cases only)

Note: In land condemnation cases, use the location of the tract of land involved.

Attorneys (if known)

II. BASIS OF JURISDICTION (Check one box, only.)

- ☒ 1 U.S. Government Plaintiff ☐ 3 Federal Question (U.S. Government not a party)
- ☐ 2 U.S. Government Defendant ☐ 4 Diversity (Indicate citizenship of parties in Item III.)

III. CITIZENSHIP OF PRINCIPAL PARTIES (For Diversity Cases Only.)

(Check one box, only for plaintiff and one box for defendant.)

	PTF	DEF		PTF	DEF
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business in This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

IV. NATURE OF SUIT (Check one box, only.)

CONTRACT	TORTS	PRISONER PETITIONS	LABOR	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice PERSONAL INJURY <input type="checkbox"/> 530 General <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Habeas Corpus: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement	<input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729 (a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 485 Telephone Consumer Protection Act (TCPA) <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY	CIVIL RIGHTS	BANKRUPTCY	FORFEITURE/PENALTY	SOCIAL SECURITY
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee (Prisoner Petition) <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other	<input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAXES <input checked="" type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609

V. ORIGIN (Check one box, only.)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District (specify) ☐ 6 Multidistrict Litigation ☐ 8 Multidistrict Litigation Direct File

VI. CAUSE OF ACTION (Enter U.S. Civil Statute under which you are filing and write a brief statement of cause.) 26 U.S.C. 7402 & 7403

enforce tax liens, reduce unpaid tax liabilities to judgment

VII. PREVIOUS BANKRUPTCY MATTERS (For nature of suit 422 and 423, enter the case number and judge for any associated bankruptcy matter previously adjudicated by a judge of this Court. Use a separate attachment if necessary.)**VIII. REQUESTED IN COMPLAINT:**

☐ Check if this is a class action Under rule 23, Demand \$ 339,755.42
F.R.C.V.P.

Check Yes only if demanded in complaint.
Jury Demand: ☐ Yes ☒ No

IX. RELATED CASE(S) IF ANY (See instructions)

Judge

Case Number

X. Is this a previously dismissed or remanded case? ☐ Yes ☒ No If yes, Case # Name of Judge

Date

March 8, 2019

Signature of attorney of record

/s/ Jordan A. Konig